***THE HONOURABLE SRI JUSTICE B.PRAKASH RAO**

+WRIT PETITION NOS: 21407 of 2003, 22087 of 2003, 22136 of 2003,

22723 of 203, 23753 of 2003, 23892 of 2003, 24773 of 2003,

25499 of 2003, 27039 of 2003, 27377 of 2003, 1319 of 2004,

4483 of 2004, 5068 of 2004, 5813 of 2004, 14622 of 2004, 8785 of 2004,

9426 of 2004, 15276 of 2004, 15465 of 2004 and 5540 of 2003

% Dated: 29-11-2004

W.P.No.21407 of 2003

Between:

M.Shobhan Kumar & others

… Petitioners

and

The Secretary, Regional Transport Authority, Warangal, Warangal district … Respondents

! Counsel for petitioners: Mr. P.Sridhar Rao, Mr.A.Prabhakar Rao, Mr.C.Damodhar Reddy, Mr. Mohd. Abdul Qader, Mr.CH.Ravinder, Mr. A.Ravinder, Mr. Y.V.Chalapathy Rao, Mr.M.Yeshwanth Kumar, Mr.B.Sudhakar Reddy, Mr.Bommisree Hari, & Mr. K.Venkateswarlu.

^ Counsel for respondent: G.P. for G.P. for Transport.

< GIST:

>HEAD NOTE:

?Cases referred: Nil.

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY NINTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NOS: 21407 of 2003, 22087 of 2003, 22136 of 2003,

22723 of 203, 23753 of 2003, 23892 of 2003, 24773 of 2003,

25499 of 2003, 27039 of 2003, 27377 of 2003, 1319 of 2004,

4483 of 2004, 5068 of 2004, 5813 of 2004, 14622 of 2004, 8785 of 2004,

9426 of 2004, 15276 of 2004, 15465 of 2004 and 5540 of 2003

1) WRIT PETITION NO : 21407 of 2003

Between:

1 M.Shobhan Kumar S/o Sudhakar
Vehicle No.Ap.36v 7782 Warangal Urban Area
Warangal District.
2 R.Venkatesh S/o. Yadagiri
3 P.Vinay Kumar S/o Sundaram
4 K.Sambaiah S/o Pochaiah
5 T.Someshwar, S/o. Somaioah
6 V.Venkataiah, S/o Pedda Sailu
7 J.Bhaskar S/o Anandam
8 M.Raju S/o Rajeshwar
9 S.Chandramouli, S/o Lingaiah

(All are resident of Warangal Urban Area, Warangal District)

… **PETITIONERS**

AND

The Secretary, Regional Transport Authority,
Warangal, Warangal District.

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of writ of mandamus by calling the records from the respondent and declare the action of the

respondent in imposing unreasonable restrictions that the petitioners' autos shall ply out side the limits of Municipal area i.e. Warangal, Hanamkoda, Kazipet with radius of 40 km from the residence of owner excluding prohibited roads in permit as arbitrary, illegal contrary to law also violation of Art.14, 19(1)(g) and 21 of the Constitution of India and consequently to set aside the unreasonable restrictions.

Counsel for the Petitioners: MR.P.SRIDHAR RAO

Counsel for the Respondents: G.P. for Transport.

2) WRIT PETITION NO : 22087 of 2003

Between:

N. Shiva Prasad, S/o. Mallesham
R/o. H.No. 11-21-127, Kashibugha, Warangal Dist.

..... PETITIONER

AND

The Secretary, Regional Transport Authority,
Warangal Dist.

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ, Order or Direction more particularly one in the nature of Writ of Mandamus declaring the conditions incorporated in the permit dated 19-7-2003 vide P.C. No. AP036/1423/PC/2003 issued in respect of Petitioner's Auto No. AP-36-V-7362 namely to ply outside the limits of municipal area of Warangal, Hanamkonda and Kazipet within the radius of 60KM from the residence of the owner excluding prohibited roads as illegal and arbitrary.

Counsel for the Petitioner: MR.A.PRABHAKAR RAO

Counsel for the Respondent: G.P. FOR TRANSPORT

3) WRIT PETITION NO : 22136 of 2003

Between:

1 Dagara Ramulu, s/o Rajaiah,
NO.AP 36E-6603 r/o Shiva Nagar, Warangal.
2 Mogili Aarelli, s/o Ramaiah
NO.AP 36-V 6799, r/o Pochamma Maidanam, Warangal.
3 Pendyala Bala Raju, s/o Mallaiah,
No.ap 36-V 7422, r/o Brahmanwada, Hanamkonda, Warangal District.
4 P. Parameswar, s/o Latchaiah, NO.AP 36-V 7572,
r/o Jayagiri, Hasanparthy, Hanamkonda, Warangal District.
5 K. Subash, s/o Iylaiah, NO.AP 36 V 7071,
r/o Jayagiri, Hasanparthy, Hanamkonda, Warangal District.

6 G. Yakaiah, s/o Ramulu, NO.AP 36-V 6685, r/o Kumarpalli,
Hanamkonda, Warangal District.
7 V. Ramesh Bau, s/o Muthaiah, NO.AP 36-V 6675,
r/o Vaddepalli, Hanamkonda, Warangal District.
8 M. Ramesh, s/o Mallaiah, AP 36-V 7586, r/o Railway Quarters,
Kazipet, Hanamkonda, Warangal District.

..... PETITIONERS

AND

The Secretary, Regional Transport Authority,
Warangal, Warangal District.

..... RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order or direction, more particularly one in the nature of writ of mandamus by calling the records from the respondent and declare the action of the respondent in imposing unreasonable restrictions that the petitioners autos shall ply out side the limits of Municipal Area i.e., Warangal, Hanamkonda, Kazipet with radius of 40 kms., from the residence of owner excluding prohibited roads in permit as arbitrary, illegal, contrary to law also violative of Articles 14, 19(1)(g) and 21 of the Constitution of India and consequently to set aside the unreasonable restrictions.

Counsel for the Petitioners: MR.C.DAMODHAR REDDY

Counsel for the Respondent: G.P. FOR TRANSPORT

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4) WRIT PETITION NO : 22723 of 2003

Between:

1 G.Bikshapathy, S/o.Jagan,
Vehicle No.AP-36V-6549, R/o.H.No.16-8-408, Abbanikunta,
Warangal Dist.
2 M.Veeraswamy, S/o.Komuraiah,
Vehicle No.AP-36V-7917, R/o.H.No.7-71, Jawahar Colony,
Waddepalli, Hanamkonda, Warangal Dist.
3 D.Babu, S/o.Bondaiah,
Vehicle No.AP-36 U-1777, R/o.H.No.5-11-207, Lashkar Singaram,
Naimnagar, Hanamkonda, Warangal Dist.
4 B.Sudhershan, S/o.Illaiah,
Vehicle No.AP-36V-7641, R/o.H.No.16-8-275, Abbanikunta,
Warangal Dist.

..... PETITIONERS

AND

The Secretary, Regional Transport Authority, Warangal,
Warangal Dist.

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ or order or direction, more especially one in the nature of writ of mandamus by calling the records from the respondent ad declare the action of the respondent in imposing unreasonable restrictions that the petitioners' autos shall ply outside the limits of Municipal area, i.e., Warangal, Hanamkonda and Kazipet with radius of 60 Kms from the residence of owner excluding prohibited roads in permit as arbsitrary, illegal, contrary to law and also in violation of Articles 14, 19(1)(g) and 21 of the Constitution of India and consequently to set aside the unreasonable restrictions.

Counsel for the Petitioners: MR.P.SRIDHAR RAO

Counsel for the Respondent: G.P. FOR TRANSPORT

5) WRIT PETITION NO : 23753 of 2003

Between:

1 Metto Sudhakar S/o. Machaiah
Vehicle No. AP-36V-7500, R/o. H.No.20-8-63,
Killa, Warangal, Warangal District.
2 Anukanta Mukesh, S/o. Yellaiah
r/o.H.No.20-6-75, Killa, Warangal, Warangal District.
3 Lingda Venkateshwarlu S/o. Sudhershan
R/o.H.No.16-4-41, Shiva Nagar, Warangal District.
4 Bukya Ramdas S/o.Kokya
R/o. H.No.1-1-645/16, Fathimanagar, Kazipet, Warangal District.
5 Banoth Showrelal S/o.Ramulu
R/o.H.No.11-19-23, Tilak Road, Kashibugga, Warangal District.

..... PETITIONERS

AND

The Secretary, Regional Transport Authority Warangal,
Warangal District.

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction, more particularly one in the nature of Writ of Mandamus, by calling the records from the respondent and declare the action of the respondent in imposing unreasonable restrictions that the petitioners' autos shall ply outside the limits of Municipal Area i.e., Warangal, Hanamkonda and Kazipet with radius of 60 kms. from the residence of owner excluding prohibited roads in permit

as arbitrary, illegal, contrary to law and also in violation of Articles 14, 19[1][g] and 21 of the Constitution of India and consequently to set aside the unreasonable restrictions.

Counsel for the Petitioners: MR.P.SRIDHAR RAO

Counsel for the Respondent: G.P. FOR TRANSPORT

6) WRIT PETITION NO : 23892 of 2003

Between:

1 J.Vijay Kumar, S/o. ILaiah,
H.No.2-77, Butapalli of Hanmakonda Mandal,
Warangal District.
2 L.Venkata Ram, S/o. Bhojya,
R/o.H.No.24-6-210/3, Fatimanagar,
Kazipet, Warangal District.

..... PETITIONERS

AND

The Secretary, Regional Transport Authority, Warangal,
Warangal District.

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order or direction more particularly one in the nature of Writ of Mandamus, by calling the records from the respondent and declare the action of the respondent in imposing unreasonable restrictions that the petitioners Autos shall ply outside the limits of Municipal Area i.e. Warangal, Hanmakonda, Kazipet with radius of 40 Kms. from the residence of Owner excluding prohibited roads in permit as arbitrary, illegal and contrary to law also violation of Article 14, 19(1)(g) and 21 of the Constitution of India and consequently to set-aside the unreasonable restrictions

Counsel for the Petitioners: MR.MOHAMMED ABDUL QADER

Counsel for the Respondent: G.P. FOR TRANSPORT

7. W.P.No.24773 of 2003:

Between:

Sri V.Deva Rao, S/o.V.Chandar Rao,
R/o.D.No.11-15-110, Kasibugga, Warangal.

..... PETITIONER

AND

The Secretary, Regional Transport Authority,
Warangal, Warangal Dist.

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ order or direction especially on in the nature of writ of mandamus declaring the action of the respondent in imposing the unreasonable restriction that the petitioner should ply his vehicle outside the limits of municipal area Warangal, Hanamkonda and Kazipet and within the radius of 60 KMs. from his residence excluding the prohited area in the permit in respect of the petitioner's auto rickshaw bearing No.AP 36 V 6519 is illegal, arbitrary and violative of Article 14, 19(1)(g) and 21 of the Constitution of India and consequently set aside the unreasonable restriction, in the interest of the justice.

Counsel for the Petitioner: MR.CH.RAVINDER

Counsel for the Respondent: G.P. FOR TRANSPORT

8. <u>W.P.No.25499 of 2003</u>:

Between:

1. Ms. Md. Yasimeen, D/o. M.A. Sattar, Vehicle No. aP-36-V-7862,

R/o. H.No. 16-11-54, Chinthal, Warangal District.
2 Malothu Hari, S/o. M. Narasimha, Vehicle No. AP-15, T/R-B-4692, R/o.H.No. 24-6-235/4, Fathimanagar, Kazipet, Warangal District.
3 K. Ravinder, S/o. Kishan, Vehicle No. AP-36V-8244, R/o.H.No. 24-6-210, Dargha, Kazipet, Warangal District.

..... PETITIONERS

AND

The Secretary, Regional Transport Authority,
Warangal, Warangal District.

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ, order or direction, more particularly one in the nature of Writ of Mandamus, by calling the records from the respondent and declare the action of the respondent in imposing unreasonable restrictions that the petitioner's autos shall ply outside the limits of Municipal Area, i.e., Warangal, Hanamkonda and Kazipet with radius of 60 KMs from the residence of owner excluding prohibited roads in permit

as arbitrary, illegal, contrary to law and also in violation of Articles 14, 19 (1)(g) and 21 of the Constitution of India and consequently to set aside the unreasonable restrictions.

Counsel for the Petitioners: MR.P.SRIDHAR RAO

Counsel for the Respondent: G.P. FOR TRANSPORT

9. W.P.No.27039 of 2003:

Between:

1 A. Srinu, s/o Venkataiah,
R/o Rampur, presently residing at Warangal.
2 A. Shoba, W/o Narsimhulu,
presently residing at H.No. 2-8-273, Waddepally, Hanamkonda.

..... PETITIONERS

AND

The Secretary, Regional Transport Authority,
Warangal, Warangal District.

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue writ of mandamus by calling the records from the respondent and declare the action of the respondent in imposing unreasonable restrictions that the petitioner's autos shall ply out side the limits of Municipal area i.e., Warangal, Hanamkonda, Kazipet with radius of 40 KM from the residence of owner excluding prohibited roads in permit as, arbitrary, illegal contrary to law also violation of Article 14, 19 (1) (g) and 21 of the constitution of India and consequently to set aside the unreasonable restrictions.

Counsel for the Petitioners: MR.A.RAVINDER

Counsel for the Respondent: G.P. FOR TRANSPORT

10. W.P.No.27377 of 2003:

Between:

1 E.Sampally Shanker @ E.Shankaraiah, S/o E.Laxmaiah
Auto Owner, Vehicle No.AP-36 T/R A 7033, R/o H.No.11-7-131,

A.J.Mills Colony, Pragathinagar, Warangal.
2 Malothu Balu, S/o Mallaiah
Auto Owner, Vehicle No.AP-36V-8362, R/o Gunlda Singaram,

Hanamkonda Mandal, Warangal District.

3 D.Sanjay, S/o Navaraj Singh
Auto Owner, Vehicle No.AP-36 T/R A 7014, r/o H.No.25-8-312,

Bapujinagar, Kazipet, Warangal District.
4 R.Prasad, S/o Venkateshwarlu
Auto Owner, Vehicle No.AP-36V-7387, R/o H.No.1-9-109,

Nakkalagutta, Hanamkonda, Warangal District.
5 Mrs.Daram Rudrama Devi, W/o Sudhakar
Auto Owner, Vehicle No.AP-36V-7566, R/o H.No.11-23-213,

Kasibugga, Warangal.
6 Mrs.Najima Begum, w/o M.K.Khader,
Auto Owner, Vehicle No.AP-36V-0491, R/o H.No.25-6-171,

Jubli Market, Kazipet, Warangal District.

..... PETITIONERS

AND

The Secretary, Regional Transport Authority,

Warangal, Warangal District.

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction, more particularly one in the nature of writ of mandamus, by calling the records from the respondent and declare the action of the respondent in imposing unreasonable restrictions that the petitioners' autos shall ply outside the limits of Municipal area, i.e., Warangal, Hanamkonda andKazipet with radius of 60 kms., from the residence ofowner excluding prohibited roads in permit as arbitrary, illegal, contrary to law and also in violation of Articles 14, 19(1)(g) and 21 of the Constitution of India; and consequently to set-aside the unreasonable restrictions.

Counsel for the Petitioners: MR.P.SRIDHAR RAO

Counsel for the Respondent: G.P. FOR TRANSPORT

11. WRIT PETITION No. 1319 of 2004

Between:

1)Kummari Ramesh, s/o.Ellaiah, auto owner,

vehicle no.AP20U 5158, r/o. H.No.7-196/37, Gorrekunta

Geesgonda mandal, Warangal district.

2)Guddeti Ramu, s/o.Komuraiah, auto owner,

vehicle no.AP20TR/T-1424, r/o. H.No.1-1-1198, Siddharthanagar,

Kazipet, Warangal district

4)Banothu Ravinder, s/o.B.Seetharam, auto owner,

vehicle no.AP-11AB/TR No.5616/HE/2003,

r/o. H.No.5-45, Balaj Banjara Colony, Gundla Singaram,

Hanamkonda mandal, Warangal district

5)Bommakanti Cheralu, s/o.Kattaiah, auto owner,

vehicle no.AP-11 AB/TR No.6078/HE/2004,

r/o. H.No.11-7-39, Christian colony, Warangal … Petitioners

and

The Secretary, Regional Transport Authority,

Warangal, Warangal district …Respondent

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction, more particularly one in the nature of writ of mandamus, by calling the records from the respondent and declare the action of the respondent in imposing unreasonable restrictions that the petitioners' autos shall ply outside the limits of Municipal area, i.e., Warangal, Hanamkonda and Kazipet with radius of 60 kms., from the residence of owner excluding prohibited roads in permit as arbitrary, illegal, contrary to law and also in violation of Articles 14, 19(1)(g) and 21 of the Constitution of India; and consequently to set-aside the unreasonable restrictions.

Counsel for the Petitioners: MR.P.SRIDHAR RAO

Counsel for the Respondent: G.P. FOR TRANSPORT

12. WRIT PETITION NO : 4483 of 2004

Between:

1 Sambaiah s/o.Poshalu R/o.H.No.7-10, Hasanaparthi, Warangal-A.P
2 Narender E. S/o.Saraiah R/o.H.No.11-95, Hasanaparthi, Warangal-A.P
3 Rajasulochan M S/o.Veeranna R/o.118, Hasanaparthi, Warangal-A.P
4 Mohd.Yakub Pasha S/o.Mohd.Shafiya R/o.6912, SRT Colony,

Warangal-A.P
5 Venkataiah, S/o.Illaiah R/o.24-3-244, Subaderi, Hanumakonda,

Warangal-A.P … Petitioners

AND

The Secretary, Regional Transport Authority,

Warangal Warangal District. …Respondent

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of writ of Mandamus and declare the action of the respondent in imposing unreasonable restrictions that the petitioners autos shall ply outside the limits of Municipal area i.e.Warangal, Hanamkonda and Kazipet with radius of 60 Kms from the residence of owner excluding prohibited roads in permit as arbitrary, illegal contrary to law and also inviolation of Articles 14, 19 (1) (g) and 21 of the Constitution of India and consequently to set aside the unreasonable restrictions.

Counsel for the Petitioners: MR.Y.V.CHALAPATHY RAO

Counsel for the Respondent: G.P. FOR TRANSPORT

13. <u>WRIT PETITION NO : 5068 of 2004</u>

Between:

Mohd. Khaleel, S/o. Ibrahim,
R/o. H.No.13-1-17, Ppchaman, Warangal, Warangal District.

..... PETITIONER

AND

The Secretary, Regional Transport Authority, cum Regional Transport Officer,
Warangal, Warangal District.

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ, Order, or Direction more particularly one in nature of Writ of MANDAMUS to Declare a restriction made in Clause No.6 of the permits granted by the Respondent for Auto Rickshaw bearing No.A.P.36V9321, through the respective permit number as illegal, arbitrary and against Rule 177 of AP Motor Vehicles Rules 1989, and other the provisions of Motor Vehicles Act and Motor Vehicles Rules, 1989, and consequently to direct the Respondents to permit the Petitioner to ply the Auto Rickshaw within Warangal & Hanmakonda, without hindrance from the respondents or their subordinates.

Counsel for the Petitioner: MR.B.SUDHAKAR REDDY & NEERAJA REDDY

Counsel for the Respondent: G.P. FOR TRANSPORT

14. <u>WRIT PETITION NO : 5813 of 2004</u>

Between:

K. Sadanandam S/o Sammaiah
H. No. 3-4-734, Kumarpally, Hanamkonda, Warangal District

..... PETITIONER

AND

The Secretary, Regional Transport Authority, Warangal, Warangal District

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondent in imposing unreasonable restrictions that the petitioner's Auto shall ply outside the limits of Municipal area i.e., Warangal, Hanamkonda and Kazipet with radius 60kms from the residence of owner excluding prohibited roads in permit as arbitrary, illegal, contrary to law and alsoin violation of Articles 14,19 (1) (g) and 21 of the Constitution of India and consequently to set a side the unreasonable restrictions

Counsel for the Petitioner: MR.M.YESHWANTH KUMAR

Counsel for the Respondent: G.P. FOR TRANSPORT

15. <u>WRIT PETITION NO : 14622 of 2004</u>

Between:

A. Raju S/o. Sambaiah
Ayodhayapuram, Hanumakonda (M),
Presently "Res. H.No. 25-8-127, Bapuji Nagar,

Kazipet, Warangal.

..... PETITIONER

AND

The Secretary, Regional Tranport Authority, Warangal.

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to Issue writ order or direction more particularly one in the nature of writ of Mandamus or any other appropriate Writ, order or direction by calling the records from the respondent herein and declare the action of the respondent in imposing unreasonable restrictions that the Petitioners Auto bearing No. A.P.36 W 0059 shall ply outside the limits of Municipal area i.e., Warangal, Hanamkonda and Kazipet within radius of 60 Km. From the residence of Owner excluding prohibited roads in

permit as arbitrary, illegal contrary to the law also Violation of Article 14, 19 (1) (g) and 21 of the constitution of India and Consequently to set aside the unreasonable restrictions.

Counsel for the Petitioner: MRBOMMISREE HARI

Counsel for the Respondent G.P. FOR TRANSPORT

16. <u>WRIT PETITION NO : 8785 of 2004</u>

Between:

D.Ramulu S/o Kumaraswamy,
H.No.11-26-136, Kothawada, Warangal Dist

..... PETITIONER

AND

The Secretary Regional Transport Authority
Warangal, Warangal Dist

..... RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of writ of Mandamus declaring the condition incorporated in the permit dt. 13/04/2004 in permit No. AP036/817/PC/2004 in respect of Auto bearing No. AP36V9744 issued by the respondent herein to play the Auto outside the limits of Municipal area of Warangal, Hanamkonda and Kazipet but within the radius of 60 Kms. from the residence of the petitioner as illegal and arbitrary.

Counsel for the Petitioner: MR.A.PRABHAKAR RAO

Counsel for the Respondent: G.P. FOR TRANSPORT

17. <u>WRIT PETITION NO : 9426 of 2004</u>

Between:

Sri Mohd. Mohiuddin S/o. Sri Ankoos
r/o. D.No. 5-2-11, Kothur Hanamkonda, Warangal. … Petitioner

AND

The Secretary, Regional Transport Authority,

Warangal, Warangal District.

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the

circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ, Order or Direction especially on in the nature of Writ of Mandamus, declaring the action of the respondent in imposing the unreasonable restriction that the petitioner should ply his vehicle outside the limits of municipal area Warangal, Hanamkonda and Kazipet and within the radius of 60 KMs from his residence excluding the prohibited area in the permit in respect of the petitioner's auto rickshaw bearing No.AP36V 7144 is illegal, arbitrary and violative of Article 14, 19(1)(g) and 21 of the Constitution of India and consequently set aside the unreasonable restriction, in the interest of justice.

Counsel for the Petitioner: MR.CH.RAVINDER

Counsel for the Respondent: G.P. FOR TRANSPORT

18. <u>WRIT PETITION NO : 15276 of 2004</u>

Between:

1 Manda Sadanandam, s/o M.Venkataiah,
r/o H.No.4-6-252, Kumarpally Market, Hanumakonda, Warangal.
Vehicle No.AP36-W-1137
2 Konda Kishore, s/o K.Mogili,
r/o H.No.1-86/30, Paidipalli, Mandal Hanumakonda, Warangal District.
Vehicle No.AP36-W-0145
3 Md.Subhan, s/o Md.Afzal Ali, r/o H.No.11-30-170,
Kothawada, Thummalakunta, Warangal, Warangal District.
Vehicle No.AP 10 RA/TR 2092
4 Shaik Kaleem, s/o Khader, r/o H.No.5-2-318, Bokkalagadda,
Hanumakonda, Warangal District. Vehicle No.AP36-W-1317
5 S.K.Siraj, s/o Sarwar, r/o H.No.5-9-86, Lashkar Bazar,
Hanumakonda, Warangal District. Vehicle No.AP36-W-1313

..... PETITIONERS

AND

The Secretary, Regional Transport Authority,
Warangal, Warangal District. … Respondents

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of writ of mandamus declaring the action of the respondent in imposing unreasonable restrictions that the petitioners' autos shall ply outside the limits of Municipal Area i.e., Warangal, Hanumakonda and Kazipet with radius of 60 kms. from the residence of owner excluding prohibited roads in permit as arbitrary, illegal, contrary to law and also in violation of Articles 14, 19(1)(g) and 21 of the Constitution of India and consequently set aside the unreasonable restrictions.

Counsel for the Petitioners: MR.P.SRIDHAR RAO

Counsel for the Respondent: G.P. FOR TRANSPORT

19. <u>WRIT PETITION NO : 15465 of 2004</u>

Between:

1 Revula Pavana, W/o.R.Laxman,
R/o.H.No.7/227, Kadipikonde, Vehicle No.AP 36-W-1197.
2 MD.Maheboob Pasha, S/o.MD.Hussain,
R/o.H.No.7-126/2, Kodipikonda Mandal, Hanumakonda, Warangal Dist.
Vehicle No.AP 36-W-1443.
3 Swargam Sridhar, S/o.S.Sadanandam,
R/o.H.No.14-1-228, Venurao Colony, Pochamma Maidan, Warangal,
Warangal Dist.
Vehicle No.AP 36-W-1241.

..... PETITIONERS

AND

The Secretary, Regional Transport Authority,
Warangal Dist.

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of writ of Mandamus declaring the action of the Respondent in imposing unreasonable restrictions that the petitioner's autos shall ply outside the limits of Municipal Area i.e. Warangal, Hanumakonda and kazipet with radius of 60 Kms. from the residence of owner excluding prohibited roads in permit as arbitrary, illegal, contrary to law and also in violation Articles 14, 19(l) (g) and 21 of the Constitution of India and consequently set-aside the unreasonable restrictions.

Counsel for the Petitioner: MR.P.SRIDHAR RAO

Counsel for the Respondent: G.P. FOR TRANSPORT

20. W.P.No.5540 of 2003 :

Between:

G.Satish, s/o. Veeraiah, auto owner-cum-driver,

Papayapet chaman, Warangal. … Petitioner

and

Regional Transport Authority, Warangal … Respondent

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ of Mandamus declaring the action of the Respondent putting unreasonable restriction not to ply petitioner diesel auto bearing no.AP 36-V 6438 within Warangal town is arbitrary, illegal and violation of principles of natural justice

and consequently direct the respondent to permit the petitioner diesel auto bearing no. AP36V 6438 to ply within warangal town.

Counsel for the Petitioner: MR. K.Venkateswarlu

Counsel for the Respondent: G.P. FOR TRANSPORT

The Court made the following :

THE HON'BLE SRI JUSTICE B.PRAKASH RAO

WRIT PETITION Nos. 21407 of 2003, 22087 of 2003, 22136 of 2003

22723 of 2003, 23753 of 2003, 23892 of 2003, 24773 of 2003,

25499 of 2003, 27039 of 2003, 27377 of 2003, 1319 of 2004, 4483 of 2004,

5068 of 2004, 5813 of 2004, 14622 of 2004, 8785 of 2004, 9426 of 2004,

15276 of 2004, 15465 of 2004 and 5540 of 2003

COMMON ORDER:

Heard the learned counsel, who have appeared for petitioners in each of these Writ Petitions and also the learned Government Pleader for the Transport appearing on behalf of the respondents.

Since common question is involved, all these matters are taken up together for disposal.

The facts, in brief, are that the petitioners herein are the owners of the respective three wheeler auto rickshaws, some of which having been obtained under hypothecation. Thereafter, the said vehicles were registered. However, at the time of registration, a specific condition has been imposed in the very permit granted by the respondents, in column no.6, meant for route/area for which the permit is valid, as "To ply outside the limits of Municipal area, Warangal, Hanumakonda & Khazipet and within a radius of 60 KMs from the residence of owner

excluding prohibited roads". It is this condition which is sought to be challenged in all these Writ Petitions, *inter alia,* on the ground that the respondents have no power or authority or jurisdiction for imposing such restriction under the Motor Vehicles Act, 1988 and the Rules made thereunder, and further it also violates the fundamental rights guaranteed under Articles 14, 19(1)(g) and 21 of the Constitution of India. It was further pleaded on behalf of the petitioners that except running the auto rickshaws and making livelihood, the petitioners have no other source. Having purchased the said vehicles with financial assistance, they can not possibly be restricted in their area of operation, more so, when the petitioners themselves are residents of the locality situated in Warangal, Hanumakonda and Khazipet. It is further contended that in respect of the permits granted earlier for such contract carriages, there was no restriction and all those auto rickshaws are plying, and whereas for no fault of the petitioners such condition is imposed without any basis or support legally. Hence, these Writ Petitions.

Contesting the petitioners' claim, the respondents in the counter affidavits contended that having regard to the heavy number of auto-rickshaws plying in those towns, the District Collector and Chairman of the Regional Transport Authority, Warangal has taken a decision to register the vehicles with such condition with effect from 01.11.2002 and thus, prohibiting entry or plying of such vehicles in the areas covered by Municipal area of Warangal, Hanumakonda and Kazipet, in exercise of powers under Section 74(3) of the A.P. Motor Vehicles Act, 1988. It was contended that under Rule 177 of the A.P. Motor Vehicles Rules, 1989, the Regional Transport Authority has got ample powers to levy such condition. Therefore, it was submitted that by taking into consideration the induction of large number of auto rickshaws and due to increase of accidents in towns, such decision has to be taken by the District Collector and Chairman of the Regional Transport Authority, Warangal, which is in the public interest and the restriction was imposed to avoid accidents and to

maintain free flow of traffic. Hence, these Writ Petitions are liable to be dismissed.

The learned counsel appearing for the petitioners submitted that having given permits, no such restrictions can be imposed, more so, to the detriment of the very purpose for which the petitioners have purchased the vehicles which is to make their livelihood, and it is very difficult for the petitioners to ply the vehicles with such restrictions. In support, reliance was placed on provisions of Section 74(2) of the A.P. Motor Vehicles Act, 1988 (for short, hereafter 'the Act'), and also Rule 177 of the A.P. Motor Vehicles Rules, 1989 (for short, hereafter 'the Rules'), to contend that the restriction imposed is outside the scope of the authority.

The learned Government Pleader appearing on behalf of the respondents sought to sustain the said restrictions on the ground that it is more in the interest of public and with a view to reduce the accidents and cause easy flow of traffic, for which a decision has been taken by the competent authorities and therefore, there is no illegality in imposing the restriction.

Considering the submissions made and on perusal of the material, the ultimate and the only question which falls for consideration in all these Writ Petitions is as to whether the impugned action on the part of the respondents herein in imposing the restriction at the time of registration of the vehicles in regard to the plying of the vehicles outside the limits of municipal area of Warangal, Hanumakonda and Khazipet and also within a radius of 60 KMs from the residence of owner excluding prohibited roads, is valid ?

There is no dispute to the fact that the petitioners, having purchased their respective vehicles and most of them with the assistance from the financial institutions agreeing to repay in instalments, got the vehicles registered with the respondents herein. However, while registering, the competent authority viz. the Regional Transport Authority concerned, imposed condition in column no.6 of the permit, describing the route/area for which the permit is valid, to the effect that the vehicles should ply outside the limits of Municipal area of Warangal, Hanumakonda and Khazipet and within a radius of 60 KMs from the residence of owner excluding prohibited roads. It is relevant to note that except to the extent of making a challenge as against the imposition of such condition in the permit, issued under Rule 174(3) of the Rules, in respect of which all those vehicles which fall within the definition of a contract carriage, none of the petitioners has made any challenge as against the very grant of permit nor have they taken any proceedings either by way of appeal or otherwise as contemplated under the provisions of the Act and the Rules. It can not be said that the petitioners do not have any right of remedy of appeal even to make a challenge as against any conditions imposed thereunder. There is no proper explanation forthcoming on behalf of the petitioners as to why and how they could not avail such remedies available under law.

Be that as it may, it is equally relevant to note that these restrictions are being imposed by the respondents with effect from 01.11.2002 especially in view of the decision taken by the District Collector and Chairman of the Regional Transport Authority, Warangal, prohibiting the entry of plying of the vehicles within the municipal limits area, as per Section 74(3) of the Act. There is no dispute that prior to such decision or even the date as mentioned above i.e. 01.11.2002, all similar such vehicles have been registered without any such condition and they are being plied unhindered. The reason shown on behalf of the respondents for adding such condition is having regard to the spurt in the number of auto rickshaws in the town and also to

avoid accidents and ultimately for enabling free flow of traffic. There is no serious dispute in regard to the specific reason as averred in the counter affidavit and the basis for taking such decision by the competent authority.

Before entering into the question, it is relevant here to note the substantive provision under Section 74 of the A.P. Motor Vehicles Act, 1988, which reads as follows:

> "74. Grant of contract carriage permit: (1) Subject to the provisions of sub-section (3), a Regional Transport Authority may, on an application made to it under Section 73, grant a contract carriage permit in accordance with the application or with such modifications as it deems fit or refuse to grant such a permits:
>
> Provided that no such permit shall be granted in respect of any area not specified in the application.
>
> (2) The Regional Transport Authority, if it decides to grant a contract carriage permit, may, subject to any rules that may be made under this Act, attach to the permit any one or more of the following conditions, namely :-
>
> i. that the vehicles shall be used only in a specified area or on a specified route or routes;
>
> ii. that except in accordance with specified conditions, no contract of hiring, other than an extension or modification of a subsisting contract, may be entered into outside the specified area;
>
> iii. the maximum number of passengers and the maximum weight of luggage that may be carried on the vehicles, either generally or on specified occasions or at specified times and seasons;
>
> iv. the conditions subject to which goods may be carried in any contract carriage in addition to, or to the exclusion of, passengers;
>
> v. that, in the case of motorcabs, specified fares or rates of fares shall be charged and a copy of the fare table shall be exhibited on the vehicle;
>
> vi. that, in case of vehicles other than motorcabs, specified rates of hiring not exceeding specified maximum shall be charged;

vii. that in the case of motorcabs, a specified weight of passengers' luggage shall be carried free of charge, and that the charge, if any, for any luggage in excess thereof shall be at a specified rate;

viii. that in the case of motorcabs, a taximeter shall be fitted and maintained in proper working order, if prescribed;

ix. that the Regional Transport Authority, may, after giving notice of not less than one month,-

a. vary the conditions of the permit;

b. attach to the permit further conditions;

x. that the conditions of permit shall not be departed from save with the approval of the Regional Transport Authority;

xi. that specified standards of comfort and cleanliness shall be maintained in the vehicles;

xii. that, except in the circumstances of exceptional nature, the plying of the vehicle or carrying of the passengers shall not be refused;

xiii. any other conditions which may be prescribed.

(3)(a) The State Government shall, if so directed by the Central Government, having regard to the number of vehicles, road conditions and other relevant matters, by notification in the Official Gazette, direct a State Transport Authority and a Regional Transport Authority to limit the number of contract carriages generally or of any specified type, as may be fixed and specified in the notification, operating on city routes in towns with a population of not less than five lakhs.

(b) Where the number of contract carriages are fixed under clause (a), the Regional Transport Authority shall, in considering an application for the grant, of permit in respect of any such contract carriage, have regard to the following matters, namely:-

i. financial stability of the applicant;

ii. Satisfactory performance as a contract carriage operator including payment of tax if the applicant is or has been an operator of contract carriages;and

iii. Such other matters as may be prescribed by the State Government:

Provided that, other conditions being equal, preference shall be

given to applications for permits from –

i. the India Tourism Development Corporation;

ii. State Tourism Development Corporations;

iii. State Tourism Departments;

iv. State transport undertakings;

v. Co-operative societies registered or deemed to have been registered under any enactment for the time being in force;

vi. Ex-servicemen."

On a bare reading of the aforesaid provision, it amply makes clear that the Regional Transport Authority has ample powers to grant contract carriage permit by adding any or more of the conditions as pointed out, in the permit. Of the conditions as mentioned therein, it also includes that the restriction can be made for use of the vehicle in a specified area or specified route or routes. Therefore, having regard to such clear provision enabling the Regional Transport Authority for adding condition, it can not be said that the said authority has no power or authority or jurisdiction to do so. Further, even under clause 3(a) of the Section, ample power is conferred on the Government that taking into consideration the road conditions and other relevant matters, it can impose any restriction in regard to the limit of the number of contract carriages or any specified type and also in regard to its operation in city routes in towns, etc.

Rule 177 of the A.P. Motor Vehicles Rules, 1989, reads as follows:

> "Grant of permits to Auto-rickshaws:- The Regional Transport Authority of any one region may grant a permit in respect of an Auto-rickshaw and Motor Cycle Taxi to ply as a contract carriage to be valid for an area lying within a radius of 60 kms. From the principal place of business of the registered owner without the counter-signature of the Regional Transport Authority or Regional Transport Authorities of the other region or regions in which the

said area may partly lie:

Provided that where the principal place of business aforesaid is a municipal town or city the area to be permitted shall be computed from the limits of the Municipality as notified under the Andhra Pradesh Municipalities Act, 1965. ”

Under this Rule, once again the Regional Transport Authority has been conferred with ample authority to add any restriction in respect of plying of contract carriages within the routes of 60 KMs from the place of business of registered owner without counter signature of the authorities as mentioned therein.

Except making sweeping submissions that the respondents ought not to have imposed any such conditions and also going to the extent of contending that such restriction runs contrary to the provisions of the Act and the Rules, no specific provision is brought to the notice in support of their contention. Whereas the provisions as mentioned above, specifically contemplate that similar such restrictions can validly be made by the authorities concerned.

Further, it can not be said that the impugned action is not innovative in its nature without any foundation therefor. According to the respondents, the decision had to be taken by the District Collector and the authorities concerned, by taking note of the heavy increase in the number of vehicles and occurrence of accidents. In their opinion, such restrictions would enable free flow of traffic and avoid accidents. It is also to be noted that with regard to the said decision or the influencing reasons, there is no serious challenge by the petitioners. In view of the same, this court is of the opinion that the petitioners have failed to make out their case to show that such restriction goes in any way outside the scope of the provisions of the Act and the Rules. In the circumstances, it is to be held that

imposition of such restriction in regard to plying of auto rickshaws, is valid and sustainable. I do not find any merits in these Writ Petitions.

The Writ Petitions are, accordingly, dismissed. No costs.

(B.Prakash Rao,J.)

29.11.2004.

DRK

LR COPY TO BE MARKED.

B.O.

DRK.

To

One fair copy to the Hon'ble Sri Justice B.Prakash Rao (for His Lordship's kind perusal).

1. The Secretary, Regional Transport Authority,
Warangal, Warangal District.

2. Two CCs to G.P. for Transport, High Court Buildings, Hyderabad (OUT).

3. Two CD copies.

4. 8 L.R. copies.

5 The Under Secretary, Union of India, Ministry of Law, Justice and Company Affairs, New Delhi.

6 The Secretary, A.P. Advocates' Association, Library, High Court bldgs., Hyderabad.